

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Stephan Nicholas Holmes,

Case No. 23-cv-2186 (KMM/DJF)

Plaintiff,

v.

REPORT AND RECOMMENDATION

County of Ramsey; Ramsey County Public Health, Correctional Health; Kristen, Ramsey County ADI Correction Health Supervisor; Dr. Van Vraaken, Correctional Health Med. Director; Lt. Rodriguez, Director of Ramsey County Jail; Jane Does 1-12; and John Does 1-12,

Defendants.

On July 24, 2023, the Court directed Plaintiff Stephan Nicholas Holmes to pay an initial partial filing fee of \$59.18, consistent with 28 U.S.C. § 1915(b). (ECF No. 2.) The Court permitted Mr. Holmes 21 days to pay the required initial partial filing fee and advised that if Mr. Holmes failed to pay the fee, the Court would recommend that this action be dismissed without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b).

That deadline has now passed, and Mr. Holmes has not paid the required initial partial filing fee. Moreover, Mr. Holmes has not communicated with the Court about this case at all since commencing this action. Accordingly, this Court now recommends, consistent with the warning it gave to Mr. Holmes, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Wewerka v. Roper*, 431 F. App'x 517, 517 (8th Cir. 2011) (per curiam) (affirming dismissal without prejudice pursuant to Rule 41(b) following prisoner's failure to pay initial partial filing fee).

RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: September 5, 2023

s/ Dulce J. Foster

Dulce J. Foster

United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).